

JEREMY FERNANDEZ §
v. § CIVIL ACTION NO. 6:13cv216
DIRECTOR, TDCJ-CID §

The Petitioner Jeremy Fernandez, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of prison disciplinary action taken against him during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Fernandez states that on August 26, 2012, he received a disciplinary case charging him with the offenses of being out of place and tampering with a locking mechanism. He was found guilty after a hearing and received as punishment 45 days of cell and commissary restrictions, a reduction in classification status from State Approved Trusty III to Line Class I, and the loss of 30 days of good time credits. He acknowledged that he is not eligible for release on mandatory supervision.

The Respondent was ordered to answer the petition and did so, arguing that because Fernandez is not eligible for release on mandatory supervision, he has not shown that the disciplinary case effected a deprivation of any constitutionally liberty interests, The Respondent therefore argued that Fernandez's petition should be dismissed. Fernandez did not file a response to the answer.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the petition be dismissed. The Magistrate Judge determined that Fernandez had failed to show that the punishments imposed upon him as a result of the disciplinary case at issue implicated any constitutionally protected liberty interests. See Sandin v. Conner, 115 S.Ct. 2293, 2301 (1995); Malchi v. Thaler, 211 F.3d 953, 959 (5th Cir. 2000). The Magistrate Judge therefore recommended that Fernandez's petition be dismissed and that Fernandez be denied a certificate of appealability *sua sponte*.

Fernandez received a copy of the Magistrate Judge's Report on or before June 6, 2013, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. See United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 12) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is hereby DISMISSED with prejudice. It is further

ORDERED that the Petitioner Jeremy Fernandez is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this 15th day of July, 2013.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**